



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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### 2009 Senate Bill 296

Senate Committee on Transportation, Tourism, Forestry, and Natural Resources

Department of Natural Resources Testimony  
Kathryn Nelson, Forest Tax Section Chief  
Division of Forestry  
Bureau of Forest Management  
September 30, 2009

Mr. Chairman and Committee Members:

Good morning. My name is Kathy Nelson and I am the Chief of the Forest Tax Section within the DNR's Bureau of Forest Management. I appreciate this opportunity to appear before you to discuss Senate Bill 296.

SB 296 provides landowners who have had a catastrophic loss on their lands a 10 year extension on their current MFL entry if the catastrophic loss occurred within the last 15 years of their MFL order period.

Living through a catastrophic event can be difficult from both a financial and emotional aspect. The department can understand and sympathize with the difficulties that survivors of catastrophic events face.

The department handles roughly 75 catastrophic loss claims for MFL landowners on an annual basis. Much of the support that the department provides survivors of catastrophic events is written in NR 46, Wisconsin Administrative Code. In 2007 the NR 46 catastrophic loss provision was changed as a result of a large fire event, the Cottonville Fire, which occurred in Adams County in 2005. A larger catastrophic loss reduction was created for fire events and the acreage of catastrophic events was decreased from ten to five acres.

NR 46 allows landowner the ability to qualify for a catastrophic loss if 30% or more of the timber on 5 acres of land has had a loss of at least 30% of stumpage value based on the rates established in NR 46, Wis. Admin. Code. If a landowner has had a catastrophic loss as a result of tornados, floods, insects or disease the yield tax charged on a salvage harvest is reduced 30%. If the catastrophic loss is the result from a fire the yield tax charged is reduced 70%.

NR 46 is also the administrative code that establishes the stumpage rates for the payment of yield taxes. Yield taxes are actually property taxes that were deferred until harvesting occurred on tax law properties. The established NR 46 stumpage rates are akin to the assessed values on a home or property and the yield tax rate of 5% is akin to the property tax rate. The assessed value of a home may or may not reflect the fair market value of that home if the home was sold, however the assessed value is used to calculate the property taxes a homeowner will pay. A similar process occurs with payment of deferred property taxes through the payment of the yield tax. Landowners pay their yield tax based on the assessed value of the timber, regardless of the

fair market value of that timber. Yield taxes are returned to the local municipality and the county on an 80% - 20% split.

The department reviews the assessed value of timber annually through NR 46 rule changes. Actual timber sale data is collected and summarized; and the average value is proposed for the following year's rates. The proposed rates are taken to public hearing and amended based on the comments received. This public process allows for the assessed stumpage values to reflect market conditions as much as possible, similar to the reassessment of houses when large discrepancies between market value and assessed value occur.

Many catastrophic events show little reduction in timber value, although timber volume may be reduced. This can occur in straight line winds, insect and disease events and other events if the timber is harvested before rot and decay set in. The department determined that fires cause more value loss than other catastrophes and warrant a larger reduction in yield tax. Char on wood and bark reduces the number of markets that wood can be sold to when salvaging fire damaged forests, thus making it more difficult for landowners to salvage after a catastrophe.

The reduction in acreage was done to make it easier for landowners to qualify for catastrophic loss and to encourage smaller areas of land to be cleaned up after such an event. This change was meant to encourage greater utilization and management of MFL lands.

SB 296 provides landowners an opportunity for additional compensation beyond that currently provided. The bill would allow those affected by catastrophic events to extend their entries for a period of 10 years beyond the date of the original MFL enrollment period.

Since MFL strives to balance providing enough incentive for private landowners to want to enter the MFL program and the return on investment for the public to support the MFL program, there are several consequences with the implementation of SB 296.

1. SB 296 is estimated to annually reduce the amount of acreage share tax that local municipalities would collect for providing services to residents by \$23,295 once the full extent of SB 296 is realized, which would be in 10 years following the date of the first extension. This reduction is because landowners would be paying the acreage share tax rate that was established prior to the change in the acreage share tax rate formula in 2004.

In 2003 Wisconsin Act 228 the legislature changed the tax rate formula so that landowners paid an acreage share rate that was equal to 5% of the average property tax rate for forested lands that are not entered into the MFL program. This acreage share rate is one dollar higher than the rate for early MFL entries. An average landowner can expect to save \$620 in acreage share payments over the course of 10 years, while each county and their municipalities can collectively expect to lose roughly \$8,100 over that same time period.

2. SB 296 is estimated to annually reduce the amount of closed acreage fees that are collected by the department to fund the new MFL Public Access Grant Program by \$143,875 once the full extent of SB 296 is realized, which again would be in 10 years following the date of the first extension. The new closed acreage rate formula is equal to 20% of the average property tax rate for forested lands that are not entered into the MFL program. An average landowner can expect to save \$3577 in closed acreage fees over the course of 10 years, while the state will lose roughly \$ 2.9 million over that same time period.

3. SB 296 is estimated to annually reduce the amount of work available for private sector foresters, by an average 35 plans per year at a cost of \$33,992. SB 296 would allow DNR Foresters to prepare management plans for extension free of charge. In 2005 Wisconsin Act 25 the Certified Plan Writer (CPW) program was created to require that landowners hire CPW for plan writing services. The legislature determined that the private sector could provide these services equally to the department, and allow for department staff to work on unmet high priority workload. SB 296 would take a certain amount of work away from the private sector and place it back on state employees. An average landowner can expect to save \$906, while department foresters would collectively spend approximately  $\frac{1}{4}$  to  $\frac{1}{3}$  FTE (full time equivalent employee) annually preparing plans for affected landowners.
4. SB 296 would allow for any MFL entry to qualify for catastrophic loss, including large and small landowners equally. Estimated annual acreage that actually has a catastrophic loss is 18,285 acres. The estimated acreage of the entire MFL that will qualify for the extension under SB 296 is 46,062 acres, meaning that roughly 60% of the acreage that will qualify for an extension under SB 296 will not have had a catastrophic loss. Large landowners will benefit more than small landowners by SB 296 since roughly 90% of the acreage that would qualify for an extension will not have had a catastrophic loss. If the desire is to limit this provision to those most adversely affected, it might be appropriate to describe a minimum percentage of an ownership that would need to have suffered a catastrophic loss to qualify for this provision.
5. Finally, SB 296 has no limit on the number of extensions that can be granted. Extensions can be granted for an additional 10 years if within 15 years of the ending date of the MFL order. Should a landowner who has had an extension have another catastrophic loss within the last 15 years of the extended order that person is eligible for another extension. If there is an intent to limit the number of extension that a landowners could qualify for, it should be articulated in the bill.

The department supports an MFL program that effectively balances the incentive for private landowners to enter land under the law and the benefits that are realized by the public. A catastrophic loss of timber can be devastating to landowners who have invested much in their land. The issue before you is how to respond to such incidents in a manner that addresses both the public and private interests.

I appreciate this opportunity to share with you the department's review of SB 296 and would be glad to answer any questions you might have.



# JULIE LASSA

## STATE SENATOR

Senate Bill 296 Testimony  
Committee on Transportation,  
Tourism, Forestry, and Natural Resources  
Wednesday, September 30, 2009 at 10:00 a.m.  
400 Southeast

Chairman Holperin and Committee Members:

Thank you for the opportunity to testify today in support of Senate Bill 296, which will allow a landowner to apply for an extension of their managed forest land order if their land was affected by fire, insects, disease, ice, snow, wind or flooding.

I have with me today one of my constituents, Nancy Livingston, whose managed forest land was affected by the Cottonville Fire and as a result she will have no merchantable product when her MFL order expires. Under current law she can petition to reenroll in a new order at the end of her current contract, but must pay for a new management plan and enroll at a much higher rate of taxation. Because the disaster destroyed her merchantable product, she will not receive any income at the end of her current contract—income that would have helped her pay for a new management plan and enroll in a new MFL order.

This bill would allow MFL owners like Nancy to apply to the DNR for an extension of an MFL order by an additional 10 years if their land was affected by one of the catastrophic events listed above (fire, insects, disease, ice, snow, wind or flooding). In order to be eligible for the extension, 30% or more of the merchantable timber on 5 or more contiguous acres of the managed forest land would have to be adversely affected.

The bill requires that the catastrophic loss must have occurred within 15 years before the date of the expiration of the original order and must have resulted in a reduction of 30% or more in stumpage value to the owner. The owner must sign the application and a DNR field forester must certify the eligibility for the extension. The DNR may deny the application if the owner fails to comply with the management plan for the managed forest land or if there are delinquent taxes on the land.

This legislation will help managed forest land owners who have been affected by a catastrophic event get back on track. This bill will provide them with some leeway to begin growing new product while continuing to pay their current MFL order rate of taxation.

Thank you again for this opportunity. I would be happy to answer any questions.